

**City of Muskegon  
Muskegon County, Michigan  
Ordinance Amendment No. \_\_\_\_\_**

THE CITY OF MUSKEGON HEREBY ORDAINS:

Article XXIII, Section 2313, Community Gardens, of the City of Muskegon Zoning Ordinance is amended in its entirety as follows.

**SECTION 2313: COMMUNITY GARDENS, PRIVATE GARDENS, AND URBAN  
COMMERCIAL FARMS**

1. Definitions. For purposes of this ordinance, the following terms shall have the meanings given to them in this section as follows:
  - A. Commercial Farming means the sale of any amount, without any minimum threshold, of an agricultural product cultivated on an Urban Commercial Farm or Community Garden.
  - B. Community Garden means a vacant parcel of land or vacant portion of a parcel of land that is divided into plots for cultivation of fruits and vegetables, plants, flowers or herbs by more than one individual and/or group. The land may or may not be owned by a participating member of the community garden group.
  - C. Cold Frame means transparent-roofed enclosure, built low to the ground, used to protect plants from adverse weather. The transparent top admits sunlight and prevents heat escape via convection that would otherwise occur, particularly at night. Essentially, a cold frame functions as a miniature greenhouse to extend the growing season.
  - D. Compost means relatively stable decomposed organic matter for use in agricultural and other growing practices, usually consisting of materials such as grass, leaves, yard waste, worms, and also including raw and uncooked kitchen food wastes, but specifically excluding bones, meat, fat grease, oil, raw manure and milk products.
  - E. Farm Animals means all animals traditionally found or used on an operating farm, including but not limited to, horses, sheep, goats, cows, chickens, donkeys, turkeys and alpaca.
  - F. Farm Coordinator means an Urban Commercial Farm or Community Garden's designated liaison to the city.
  - G. Farm Equipment and Tools means those pieces of machinery and tools used to prepare the soil, cultivate produce, fertilize, harvest, etc., including but not limited to, tractors, rototillers, rakes, shovels, hoes, fertilizer, pesticide and herbicide spreaders and sprayers, etc.
  - H. Greenhouse means a building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants.
  - I. Hoop house means an unheated structure whose roof and sides are made largely of transparent or translucent material (not glass) for the purpose of the cultivation of plants inside.

- J. Orchard means the establishment, care, harvesting of a group of more than ten (10) fruit or nut bearing trees.
- K. Private Garden means an accessory use where the owner or tenant grows and harvests food crops and/or non-food crops for personal use by the owner or tenant of the land.
- L. Rainwater Catchment System means a method of catching rainwater runoff from the roof of a structure into rain gutters that channel into a rain barrel, drum or cistern.
- M. Urban Commercial Farm means land used for the cultivation of fruits and vegetables, plants, flowers or herbs for sale or profit. It is an accessory use on a residential or commercial property requiring a special use permit and business license.

## 2. Agricultural Uses

The agricultural uses of Community Gardens, Private Gardens and Urban Commercial Farms are limited to the cultivation of herbs, fruits, flowers, or vegetables, including the cultivation and tillage of soil and the production, cultivation, growing and harvesting of any agricultural, floricultural, or horticultural produce. Farm animals, including livestock, are prohibited.

The agricultural uses of Community Gardens, Private Gardens and Urban Commercial Farms shall not be detrimental to the physical environment or to the public health and general welfare by reason of excessive production of noise, smoke, fumes, vibrations, odors, chemical or biological pollutants.

## 3. Property Maintenance

- A. Property used for Community Gardens, Private Gardens and Urban Commercial Farms shall be maintained in an orderly and neat condition, free of high grass (with the exception of purposely cultivated native species, which shall be allowed), noxious weeds, or debris. Dead garden plants shall be removed regularly, and in any instance, no later than November 30<sup>th</sup> of each year.
- B. Plants from cultivated areas shall be prevented from encroaching onto adjacent properties or onto the public right-of-way.
- C. Seeds and harvested crops on site shall be stored so as not to attract animals.
- D. Compost must be maintained and stored to avoid any odor reaching neighboring property.
- E. Fencing is permitted, but requires a development permit from the city, and must comply with existing fencing rules and regulations.

## 4. Applicable Laws

Community Gardens, Private Gardens and Urban Commercial Farms shall comply with all applicable local, state and federal regulations.

## 5. Site Plan Requirements

A Site Plan is required for all Urban Commercial Farms and Community Gardens.

The Farm Coordinator shall submit a site plan to the Zoning Administrator for approval prior to beginning a Community Garden or Urban Commercial Farm. The site plan must include the following:

- A. The name of the Farm Coordinator.
- B. The project address.
- C. The project name (if any).
- D. The legal owner of the parcel(s). If the Community Garden or Urban Commercial Farm is a tenant, include the length of the current lease.
- E. Gross site area of parcel(s) to be used, including dimensions.
- F. Location of the following: principal and accessory structures, crop areas, fencing and walls, ingress and egress, loading areas, compost piles, trash containers and dumpsters, signage, restroom facilities (if any), and all bodies of water and wetlands adjacent to or in the immediate vicinity of the parcel(s).
- G. A narrative description generally describing the following, as applicable:
  - i. The types, methods of application, storage of proposed pesticides, herbicides, fertilizers, and any other chemicals that will be used.
  - ii. The type of machinery and equipment proposed and description of the noise, vibration, smoke, odor, dust, dirt that may be a nuisance to surrounding properties.
  - iii. Evaluation of existing soil conditions and plans to mitigate soil issues, as necessary.

## 6. Community Gardens and Urban Commercial Farms

Community Gardens are intended to bring citizens together to work collaboratively in growing food for their personal use or donation, or sales to generate income for garden activities that benefit the community; to promote education with regard to agriculture, provide a positive communal environment for children and adults living nearby and an opportunity for volunteer work among participants. Community Gardens are not intended to be for-profit commercial farming operations. Urban Commercial Farms, on the other hand, are intended to be for-profit commercial farming operations, operated by an individual or a single group.

Community Gardens are a principal use permitted in B-1, Limited Business; B-5, Governmental Business; MC, Medical Care; and all Residential (R-1, RT, RM-1, RM-2, RM-3) zoning districts.

Urban Commercial Farms are a Special Land Use permitted in B-1, Limited Business; B-5, Governmental Business; MC, Medical Care; and all Residential (R-1, RT, RM-1, RM-2, RM-3) zoning districts.

Community Gardens and Urban Commercial Farms are permitted in their respective Zoning Districts subject to the following conditions:

- A. Each Community Garden and Urban Commercial Farm shall have a Farm Coordinator designated as its liaison to the City. The Coordinator's name and contact information shall be given to the Zoning Administrator.
- B. No on-site sales shall be permitted, unless the produce is grown on a site where sales of produce are already permitted under the zoning laws, such as a grocery store or restaurant.

- C. The Community Garden or Urban Commercial Farm must be designed and maintained so that water, chemicals, dirt, mud or fertilizer will not drain into the streets, alleys or adjacent properties. Any use of pesticides or fertilizers must comply with applicable state or federal regulations.
- D. Setback Requirements must be met:
  - a. Buildings and accessory structures must comply with the setback, height and size requirements of the zoning district in which the garden or farm is located.
  - b. Rain barrel systems, crop areas, and planting beds must be set back at least five (5) feet from all property lines. This may be reduced to three (3) feet within the presence of a fence.
  - c. Orchards and all crops reaching a height of five (5) feet at maturity shall be set back at least fifteen (15) feet from all property lines. The side and back setbacks may be reduced to five (5) feet within the presence of a fence.
  - d. The required setback areas must be covered with ground plants, which may include native or ornamental grasses and low ornamental plantings. Mulch may also be used as an appropriate ground covering except in the first five (5) feet of the front setback.
  - e. Compost areas or waste bins must be less than sixteen (16) square feet in size and must be set back at least ten (10) feet from all property lines and at least twenty (20) feet from the nearest principal residential structure.
- E. On-site amenities like picnic tables, garden art, benches, and bike racks are permitted as long as they meet setbacks requirements, do not obstruct the clear vision at drives or intersections, and do not create a nuisance for neighboring properties.
- F. Community Gardens on vacant parcels may erect a hoop house or greenhouse as a primary structure.
- G. No water or irrigation wells may be installed unless by a state-licensed well-drilling firm, and with approval and necessary permit from the city and county. All groundwater wells located on city property must be removed by the responsible group, at their expense, when the garden is no longer in use.
- H. Oats, wheat and rye may be used as a winter cover crop, but not grown to full maturity in any season.
- I. Trash receptacles shall be located to the rear of the property unless the Department of Public Works determines that another location creates less impact on the adjacent properties.
- J. Lighting, if provided, shall be shielded so that all directly emitted light falls within the property.
- K. Farm equipment, tools, supplies, and machinery shall be stored in an enclosed structure or removed from the property daily. All chemicals and fuels shall be stored off of the ground, in an enclosed, locked structure when the site is unattended.
- L. Tractors and other diesel generated motorized vehicles within a residential zoning district shall be restricted to hours beginning at 8:00a.m. and ending at 8:00p.m
- M. Temporary restroom facilities are permitted only during the growing season from April 15<sup>th</sup> through October 15<sup>th</sup>. The facilities shall be screened on at least three (3) sides from public view by fencing, structures or plantings of sufficient height.

## 7. Business License for Commercial Farming

All Urban Commercial Farms and those Community Gardens wishing to engage in Commercial Farming through the sale of any agricultural products must first obtain a business license through

the City. Community Gardens that do not engage in Commercial Farming are not required to obtain a business license.

8. Private Gardens

- A. Private Gardens are permitted uses in all zoning districts.
- B. Commercial Farming, i.e., the sale of any agricultural products yielded, from a Private Garden is prohibited.
- C. No Site Plan is required for a Private Garden.
- D. The requirements outlined above in Section 6 for Urban Commercial Farms and Community Gardens do not apply to Private Gardens.

This ordinance adopted:

Ayes: \_\_\_\_\_  
Nays: \_\_\_\_\_

Adoption Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_  
First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_

CITY OF MUSKEGON

By \_\_\_\_\_  
Ann Cummings, MMC  
City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted, and public notice was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: \_\_\_\_\_, 2015

\_\_\_\_\_  
Ann Cummings, MMC  
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

**CITY OF MUSKEGON  
NOTICE OF ADOPTION**

**[TO BE COMPLETED after adoption]**

TO: ALL PERSONS INTERESTED

Please take notice that on \_\_\_\_\_, 2014, the City Commission of the City of Muskegon adopted an amendment to Article XXIII, Section 2313, Community Gardens, of the of the City of Muskegon Zoning Ordinance, whereby the section was replaced in its entirety with the following:

Section 2313 was renamed “Community Gardens, Urban Farms and Private Farms”

1. Section 1 defines the terms used in the ordinance.
2. Section 2 describes the Agricultural Uses are limited to growing and harvesting agricultural, floricultural or horticultural produce. No farm animals are permitted.
3. Section 3 outlines basic Property Maintenance standards for properties engaged in Agricultural Uses.
4. Section 4 states that Community Gardens, Private Farms and Urban Commercial Farms shall comply with all applicable local, state and federal regulations.
5. Section 5 outlines the requirements for the site plans all Community Gardens and Urban Commercial Farms must submit for approval to the Zoning Administrator.
6. Section 6 requires each Community Garden and Urban Farm to
7. Section 7
8. Section 8

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten (10) days from the date of this publication.

CITY OF MUSKEGON

Published: \_\_\_\_\_, 2014

By: \_\_\_\_\_  
Ann Cummings, MMC, Its Clerk

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PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE